

**REMARKS**

This paper is responsive to the Office Action mailed June 27, 2005. Claims 1-18 are pending in the present application. Claims 1, 6, 10 and 15 are amended. The basis for amendments can be found, for example, at p. 11, line 23 – p. 12, line 5. Claims 19-23 have been added. Support for new claims 19 and 20 can be found, at least at page 8, line 28 – p. 9, line 8. Support for new claims 21-23 is found at least in original claims 7-9. Thus, no new matter has been added. Reconsideration of the Examiner's rejections in view of the foregoing amendments and the following remarks is respectfully requested.

**1. Provisional Obviousness-Type Double Patenting Rejection.**

Claims 1, 3-10 and 12-18 stand provisionally rejected under the judicially created doctrine of double patenting over all pending claims of co-pending application number 10/365,332. As of the date the instant paper is filed, the undersigned has not received a notice of allowance for application having Serial No. 10/365,332. Therefore, a further response to this provisional rejection is not necessary at this time.

**2. Rejections Under 35 USC § 103(a)**

Claims 1-4, 6-7, 10-13 and 15-16 stand rejected under 103(a) as being unpatentable over Hashimoto (US 6,657,690) ("Hashimoto"). Applicants respectfully disagree.

Contrary to the Examiner's assertion, the cited passage (i.e., col. 7, lines 46-52 and col. 9, lines 16-20) would not make it obvious to a person of ordinary skill in the art to make a j-retarder having the claimed characteristics. For example, Hashimoto's ranges of 10 to 1,000 nm and 20 to 200 nm for the in-plane retardance and the ranges of 10 to 1000 nm, 70 to 500 nm and 100 to 300 nm for the out-of-plane retardance contain many values outside the claimed retardance ranges: "an in-plane retardance being 100 nm or less and an absolute value of an out-of-plane retardance being 55 nm or greater." In fact, Hashimoto teaches that in-plane retardances as high as 1000 nm and out-of plane retardances as low as 10 nm are preferred. Thus, a person of ordinary skill in the art would not be motivated by this disclosure to construct a j-retarder with the claimed characteristics.

Claims 1, 6, 10 and 15 have been amended to further clarify that the j-retarder includes a simultaneously biaxially stretched polymeric film comprising a crystallization modifier. The cited reference fails to disclose or suggest polymers that include a crystallization modifier.

The polymers listed by the cited reference are all amorphous polymer systems that do not exhibit any significant degree of crystallization. Thus, the cited reference would not need a crystallization modifier and one would not be motivated to modify this reference to arrive at Applicant's claimed invention of claims 1-18. Therefore, amended claims 1, 6, 10 and 15 are patentable over the cited reference.

In addition, Applicants disagree with the examiner's assertion that the liquid crystals (6) of the liquid crystal cell in Hashimoto can be fairly characterized as a "first liquid crystal layer." Furthermore, as it is apparent from Figs. 1 and 2 of Hashimoto, the liquid crystal cell does not include a retarder disposed on the liquid crystals (6), but instead the liquid crystals (6) are disposed between upper and lower substrates (5a) and (5b).

For at least the foregoing reasons, Applicants respectfully submit that the Examiner has not established a *prima facie* case that claims 1, 6, 10 and 15 are obvious over Hashimoto and request reconsideration and withdrawal of these claim rejections. Dependent claims 2-5, 7-9, 11-14 and 16-18 are patentable for at least the reasons explained above.

With regard to the Examiner's rejection of claims 2 and 11, Hashimoto does not provide any motivation to a person of skill in the art to modify its disclosure to include "a second liquid crystal layer wherein the j-retarder that is disposed between the first liquid crystal layer and the second liquid crystal layer." The Examiner's suggestion that use of an additional liquid crystal layer is common and known for "different switching modes, i.e., swapping background color" does not appear to find basis in the cited references or to be generally available in the relevant field of art. Applicants respectfully request reconsideration and withdrawal of these claim rejections.

With regard to the Examiner's rejection of claims 7 and 16, Applicants assert that the Examiner is simply guessing as to which type of polarizer the reference teaches absent an explicit or inherent disclosure. Applicants respectfully request reconsideration and withdrawal of these claim rejections.

Claims 5, 8-9, 14 and 17-18 stand rejected under 103(a) as being unpatentable over Hashimoto in view of Broer (US 6,359,670) ("Broer"). Applicants respectfully disagree. Broer is cited by the Examiner for the purpose of its general teaching of a reflective polarizer. It does not teach or suggest the missing claim limitations discussed above or provide motivation for suitably modifying the cited references, and therefore these claims are patentable over the cited references for at least the reasons explained above.

In addition, the requisite motivation to combine the references in the way suggested by the Examiner is absent and so is a reasonable expectation of success. The Examiner may not use hindsight in selecting elements from different references in order to arrive at the Applicants' invention. Applicants respectfully request reconsideration and withdrawal of these claim rejections.

### 3. New Claims

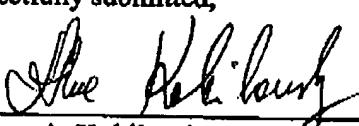
New claims 19-23 are directed to a polarizer on a j-retarder, where the j-retarder includes a simultaneously biaxally stretched polymeric film comprising a non-cyclic polyolefin polymer. Applicants assert that the cited references do not at least disclose a j-retarder including a non-cyclic polyolefin polymer. Thus, for at least this reason, Applicants submit that the new claims are patentable over the cited references.

### CONCLUSION

In view of the above, Applicants submits that pending claims 1-23 are in condition for allowance. Reconsideration of the Examiner's rejections is respectfully requested and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By:

  
Anna A. Kobilansky, Reg. No.: 53,146  
Telephone No.: (651) 737-8345

September 23, 2005

Date

Office of Intellectual Property Counsel  
3M Innovative Properties Company